IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.440 OF 2005.

Mrs.Geeta Wd/o Narendra
Ramchandra Amre @ Naresh
& Ors. : Appellants.

versus

Kamalakar Ramchandra Amre
& ors. : Respondents.

Mr.J.P.Dubey for the appellants.
Mr.P.G.Lad for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 7th June 2005.

ORAL ORDER

1. Heard advocates for the appellants and respondent. The appellants had filed a suit for certain declaration against the respondents. His suit came to be dismissed under Order 15 Rule 4

of the C.P.C. for non-production of evidence on the date fixed. Counsel for the appellants states that there were genuine difficulties in the way of the appellants/plaintiffs on the date of producing the evidence. In view of this statement and looking to the nature of claim the appeal is admitted and taken up for final hearing and, it is finally heard.

2. In the circumstances, the impugned order is set aside. The matter is remanded back to the City Civil Court, Mumbai, which dismissed the suit, for decision of the suit according to law from the stage of evidence. Parties to appear before the City Civil Court on 24/06/2005. The City Civil Court will fixed the date for recording evidence within 10 days. The plaintiffs will keep their evidence ready on that day and the suit will be decided and disposed of within six months therefrom. The appellants will have right to apply for continuation of interim order afresh and it will be decided on merits after hearing both sides. This order to be communicated immediately to the concerned court. Appeal is disposed of.

[D.G.DESHPANDE]

07/06/2005 JUDGE.